

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GERARDO REYNA-GONZALEZ ,

Defendant.

Case No. CR-S-2:11-CR-00007-KJD -VCF

ORDER

Before the Court is Defendant’s Motion to Allow Late Filing of Notice of Appeal (#32). No opposition has been filed.

Federal Rule of Appellate Procedure 4(b)(4) states: “Upon a showing of excusable neglect or good cause, the district court may—before or after the time has expired, with or without motion and notice—extend the time or filing a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b).” See FRAP 4(b)(4).

The judgment of conviction in this case was entered on November 16, 2011. As a result, Mr. Reyna’s notice of appeal was due no later than November 30, 2011. See FRAP 4(b)(A)(I).

1 Nevertheless, Mr. Reyna is still within the 30-day rule prescribed by FRAP 4(b)(4) to request this
2 extension. See FRAP 4(b)(4).

3 This Court has considered the Motion, the affidavit submitted by Mr. Sussman,
4 and the assertions of Mr. Reyna regarding the steps he took to notify his attorney of his desire to
5 appeal. It appears that the language barrier between Defendant and his attorney may have affected
6 his ability to properly express his desire to file an appeal. Based on all of the factors enumerated
7 above, the Court finds that excusable neglect has been demonstrated.

8 DATED this 9th day of January 2012.

9
10
11 

12 _____
13 Kent J. Dawson
14 United States District Judge
15
16
17
18
19
20
21
22
23
24
25
26